

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 8116

BILL NUMBER: SB 548

DATE PREPARED: Jan 20, 2001

BILL AMENDED:

SUBJECT: Direct Care Staff Registry and Criminal History.

FISCAL ANALYST: Kathy Norris

PHONE NUMBER: 234-1360

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill requires the State Department of Health to establish and maintain a registry of case managers and certain unlicensed employees of: (1) community-based residential, habilitation, or vocational services providers; (2) home care services providers; (3) intermediate care facilities for the mentally retarded serving more than eight individuals; (4) state institutions under the control of the Division of Disability, Aging, and Rehabilitative Services (DDARS) or the Division of Mental Health; and (5) health care facilities. The bill prohibits specified entities from certifying or employing an individual as a case manager or employing an individual in certain unlicensed positions if the individual has been convicted of specified offenses or if the individual has committed a certain action. The bill also provides for the establishment of procedures to investigate allegations of specified types of misconduct and to report substantiated findings. It allows DDARS to assess a civil penalty for noncompliance.

Effective Date: Upon passage; July 1, 2001.

Explanation of State Expenditures: This bill establishes the operation of the Direct Care Staff Registry. The registry is to be operated by the State Department of Health in conjunction with the established Nurse Aide Registry. The Division of Disability, Aging, and Rehabilitative Services is responsible for receiving reports, investigating, and conducting the required due process hearing procedure necessary to enter reports on individuals into the Registry. It is estimated that currently there are approximately 20,500 caseworkers and other unlicensed staff that would be subject to the registry.

The registry's start-up and maintenance costs in the Department of Health are estimated to be approximately \$78,500 in FY2002 and \$72,500 in subsequent years. The registry is expected to require a COMOT 3 Level staff person for maintenance and data updates. Staff costs are estimated to be approximately \$30,600 in the first year, and \$31,000 in subsequent years. (*This includes an assumed 4% pay plan increase each January.*) The following table displays the registry's estimated cost components for the biennium.

Direct Care Staff Registry		
Department of Health	FY 2002	FY 2003
Estimated Start-Up Cost		
Update the Current Registry	\$5,000	
Phone System	5,000	\$5,000
Computer	1,500	
Total Start-Up Cost	\$11,500	\$5,000
Estimated Annual Operating Cost		
1 COMOT III Staff Position	\$17,689	18,043
Fringe Benefits	9,245	9,310
Leased Space	3,634	3,634
Total Annual Operating Cost	\$30,568	\$ 30,987
Total Department of Health Cost	\$42,068	\$ 35,987
(DDARS) Hearing & Investigation Cost	36,500	36,500
Total Direct Care Staff Registry Cost	\$ 78,568	\$ 72,487

In addition to the costs related directly to the creation and maintenance of the Direct Care Staff Registry, the bill may also require the Division of Disability, Aging, and Rehabilitative Services to incur additional expenses related to the investigation of complaints associated with the names placed on the registry. Based on the Department of Health's experience with the Nurse Aide Registry, it is estimated that the registry of the 20,500 case managers and other unlicensed employees will generate approximately 98 complaints annually. Of these reports, approximately 75% are expected to require further investigation. The Family and Social Services Administration has estimated that the contract costs associated with the investigation of these complaints will be approximately \$23,000 each year. The registry is also expected to annually generate an average of six appeals from individuals listed on the registry. The appeals process could require the Division to contract with additional legal staff. Legal costs are estimated at \$13,500 per year. The total estimated cost of contract investigators and legal staff is \$36,500 per year.

Explanation of State Revenues: The bill requires the affected institutions or organizations to check the names of applicants in the Direct Care Staff Registry and the Nurse Aides Registry for certain offenses that would make an applicant ineligible for employment. Currently, the Department of Health does not charge a fee to check the Nurse Aides Registry via an automated phone system. Access Indiana charges \$1 per request to check the registry via the internet. The Direct Care Staff Registry is expected to be operated in a similar manner. The bill also requires a criminal history check to be completed within three days of the applicant's employment. The State Police Department charges \$7 for the required criminal history report. While the bill allows private entities to pass any costs related to these reports through to the prospective employees, the bill prohibits certain state institutions from requiring a job applicant to pay the cost of these reports. The number of people that will be affected by this provision is currently unknown.

Penalty Provision: This bill makes it a Class A infraction for noncompliance with certain provisions in the bill. Any civil penalty awarded for noncompliance is to be deposited in the Developmentally Disabled Client

Services Account and used to fund certain quality assurance programs approved by the Division. The maximum judgment for a Class A infraction is \$10,000. If additional court cases occur, revenue to the state General Fund may increase if infraction judgments and court fees are collected. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed. 70% of the court fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures:

Explanation of Local Revenues: If additional court actions are filed and a judgment is entered, local governments would receive additional revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Health; Family and Social Services Administration, Division of Disability, Aging, and Rehabilitative Services and the Division of Mental Health.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Susan Preble, 232-1149, Legislative Liaison for Family and Social Services Administration; Marilyn Cage, 233-2170, Legislative Liaison for the State Department of Health; Indiana State Police.